



Dennis J. Duffin
Director

The Commonwealth of Massachusetts

*Office of
Campaign & Political Finance*

One Ashburton Place, Boston 02108

727-8352

40-6

March 27, 1984

AO-84-6

Mr. James T. McDavitt, Esquire
15 Thomas Park
South Boston, MA 02127

Dear Mr. McDavitt:

This letter is in response to your recent request for an advisory opinion relative to several questions posed by you on behalf of Thomas S. McDavitt, a candidate for state representative.

You will find below the questions you have asked followed by appropriate responses in accordance with the provisions of G.L. c. 55, the Massachusetts campaign finance law.

Question 1. If the Committee To Elect Tom McDavitt should accept the offer of its Treasurer, Sara, and use her home for a political fundraiser to benefit Tom's candidacy, and if Tom and Sara should own this home jointly, would Tom as a town employee be directly or indirectly soliciting or receiving political contributions in violation of G.L. c. 55 §13?

Response: Yes.

Question 2. Would the result in No. 1 above be different or the same if Sara were the sole legal and equitable owner of the home wherein the fundraiser would take place?

Response: The result in No. 1 would be different only if Sara were the sole legal and equitable owner of the home by virtue of a true and valid legal transfer of title, provided that the sole purpose of such transfer is not to circumvent the campaign finance law.

Question 3. Would the result in No. 1 be different or the same if Tom and Sara were to give a written one-day lease on a specified part of their house to the Committee To Elect Tom McDavitt, and if the Committee's fundraiser were to take place only on the day of the lease and then only in the leased portion of the house?

Response: The result would be the same.

Question 4. If Sara as Committee Treasurer should solicit and receive political contributions in her home, and if Tom and Sara should own this home jointly, would Tom as a town employee be directly or indirectly soliciting or receiving political contributions in violation of G.L. c. 55 §13?

Response: Yes.

Question 5. Would the result in No. 4 above be different or the same if Sara were the sole legal and equitable owner of the home wherein political contributions would be solicited and received?

Response: The result in No. 4 would be different only if Sara were the sole legal and equitable owner of the home by virtue of a true and valid legal transfer of title provided that the sole purpose of such transfer is not to circumvent the campaign finance law.

Question 6. Would the result in No. 4 above be different or the same if Tom and Sara were to lease in writing a certain part of their home to the Committee To Elect Tom McDavitt, and if political contributions were solicited and received by the Committee only when the lease was in effect and then only in the leased portion of the home?

Response: The result would be the same.

Question 7. If prior to the formation of the Committee To Elect Tom McDavitt a city employee wrote out a check to Tom in order to promote Tom's candidacy, and if Tom were not to return the check to this city employee, would the city employee be violating G.L. c. 55 §15, and would Tom as a town employee be violating G.L. c. 55, §13?

Response: The receipt of a political contribution by Tom, a public employee, would be a violation of those provisions of c. 55, regardless of the fact that the contribution may be returned. The violations occur at the time the contribution is received.

Question 8. Would the result in No. 7 above be different or the same if Tom were to keep the check but report the contribution to the Office of Campaign & Political Finance?

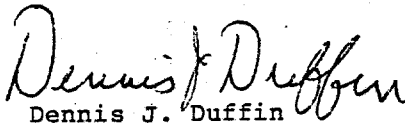
Response: The result in No. 7 would be the same, regardless of the fact that the violation is reported or not.

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Question 9. If the Committee To Elect Tom McDavitt should rent out state-owned premises in order to hold a political fundraiser there, would the committee members thereby be soliciting or receiving gifts of money for political purposes in a building occupied for state purposes, in violation of G.L. c. 55 §14?

Response: Section 14 of c. 55 clearly states that "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift or money or other thing of value for the purposes set forth in section thirteen. While c. 55 does not prohibit the use of a building occupied for public purpose for a political function, no activity described in this section may be conducted in such a building. Please be advised, also, that there may be other statutes and ordinances you should consult relative to appropriate uses of public buildings."

Very truly yours,



Dennis J. Duffin
Director

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